

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 93-81183

v.

Honorable John Corbett O'Meara

ANTONIO AMEEN,

Defendant.

**ORDER GRANTING GOVERNMENT'S MOTION TO RESCIND ORDER
AND DENYING DEFENDANT'S MOTION TO MODIFY OR REDUCE SENTENCE**

This matter came before the court on the government's February 25, 2011 motion to rescind the parties' stipulated order of October 9, 2009. Defendant Antonio Ameen filed a response May 12, 2011; and the government filed a reply May 25, 2011. On November 30, 2011, defendant Ameen filed a motion to modify or reduce his sentence; and the government filed a response January 12, 2012. No reply was filed, and no oral argument was heard.

The purpose of the October 9, 2009 stipulated order was to allow defendant Antonio Ameen to enroll in the Residential Drug Abuse Program ("RDAP") administered by the Bureau of Prisons ("BOP"). The wording of the order provided that Ameen ". . . shall be entitled to enroll . . ." However, the court does not have jurisdiction in matters relating to the BOP's decisions regarding placement in particular programs. Furthermore, defendant Ameen was not eligible for placement in the RDAP; only inmates with a verifiable drug use problem within twelve months of the inmate's arrest are eligible. In this case Ameen himself denied any history of substance abuse during his pre-

sentence interview. He has no history of positive drug tests, arrests related to the use of drugs, or hospitalization due to drug use. He was simply not eligible for placement in the program.¹

Because the court can make only recommendations to BOP, see, United States v. Jackson, 70 F.3d 874 (6th Cir. 1995), the court will grant the government's motion to rescind the October 9, 2009 stipulation.

In his November 30, 2011 motion, defendant Ameen seeks to reduce his sentence by 12 months due to BOP's refusal to allow him to enroll in the RDAP. However, there is no legal authority for post-sentence modification or reduction of sentence based upon a BOP decision regarding placement in a particular program. Therefore, the court must deny defendant Ameen's motion.

ORDER

It is hereby **ORDERED** that the government's February 25, 2011 motion to rescind the parties' stipulated order of October 9, 2009, is **GRANTED**.

It is further **ORDERED** that defendant Antonio Ameen's November 30, 2011 motion to modify or reduce sentence is **DENIED**.

s/John Corbett O'Meara
United States District Judge

Date: February 28, 2012

¹ Defendant had sought placement in RDAP because participation in the program can reduce the amount of time a defendant serves. Ameen was encouraged to participate in the facility's regular drug program, but he declined.

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, February 28, 2012, using the ECF system.

s/William Barkholz
Case Manager